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Bill Analysis

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Primary Sponsors: Reps. Fraizer and Richardson

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SUMMARY

Director of Job and Family Services duties

- Requires the Director of Job and Family Services to write, and periodically review, a written staffing plan to be implemented whenever there is an increase or decrease in inquiries or in the number of claims for unemployment benefits.
- Requires the Director to adopt rules creating a system that participants in the unemployment benefit application process can use to make customer service complaints.
- Requires the Director to maintain a consolidated list of contacts related to inquiries about unemployment benefits.
- Requires the Director to adopt rules creating a system that General Assembly members can use to refer constituent inquiries about any program administered or supervised by the Director.
- Revises the process by which the Director notifies an applicant for unemployment benefits of eligibility issues.

Unemployment Compensation Modernization and Improvement Council

- Creates the Unemployment Compensation Modernization and Improvement Council and specifies its membership.
- Requires the Council to examine the process by which claims for unemployment benefits are filed and paid.
- Prohibits the Council from examining the solvency of Ohio's Unemployment Compensation Fund.

- Requires the Council to prepare, not more than six months after the bill's effective date, an initial report that describes the state of the claims process at the time the report is issued and any planned improvements to the process.
- Permits the Council to perform additional research, publish additional reports, and make recommendations about the Unemployment Compensation Law to the Director, the Unemployment Compensation Review Commission, the Governor, and the General Assembly.
- Requires the Council to be notified of security breaches in the records maintained under the law and of substantial disruptions in the claims process.

Auditor's examination of the unemployment claims process

- Requires the Auditor of State to examine the unemployment benefit claims process and prepare a report containing specified information not later than six months after the bill's effective date.

DETAILED ANALYSIS

Director of Job and Family Services duties

Staffing plan

Under the bill, the Director of Job and Family Services must develop a written strategic staffing plan to be implemented whenever an increase or decrease in inquiries or in the number of claims for benefits under the Unemployment Compensation Law¹ occurs. The Director must develop the initial plan not later than six months after the bill's effective date and annually review and, if necessary, revise it. The Director must provide the initial plan and any revised plan to the Unemployment Compensation Modernization and Improvement Council created by the bill, the Senate President, the Speaker of the House, and the Governor. The most recent version of the plan must be posted on a publicly viewable website maintained by the Director. The Director must include all of the following in the plan:

- An explanation of how, if at all, the Director will use employees employed by the Director who do not ordinarily perform services related to unemployment benefits;
- An explanation of how, if at all, the Director will use employees employed by other state agencies;
- An explanation of how, if at all, the Director will use employees provided by private entities.²

¹ R.C. Chapter 4141.

² R.C. 4141.13(B).

Customer service complaint system

The bill requires the Director to adopt rules, in accordance with the Administrative Procedure Act,³ creating a uniform process through which an applicant for or a recipient of unemployment benefits or an employer may submit a complaint related to the service the applicant, recipient, or employer received.⁴

Contact list

The bill requires the Director to create, in a single place on the Director's website, a list of all of the points of contact through which an applicant for or a recipient of unemployment benefits or an employer may submit inquiries related to the Unemployment Compensation Law. The contact list must include both of the following:

- Email addresses, telephone numbers, fax numbers, and any other method of communication the Director uses to communicate with applicants, recipients, and employers;
- A brief description of the types of questions that may be submitted to each point of contact.

The bill does not prohibit the Director from maintaining contact information in more than one place.⁵

Constituent referral system

The bill requires the Director to adopt rules, in accordance with the Administrative Procedure Act, creating a uniform process through which General Assembly members may submit constituent inquiries to the Director related to any program the Director administers or any matter over which the Director exercises supervision or control. The constituent referral process created by the Director is not subject to the Public Officials Ethics Law⁶ prohibiting a public official from representing an individual in a matter in which the public official actively participates.⁷

Notice of unemployment benefits eligibility issues

Under current law, when the Director identifies an eligibility issue in an individual's initial claim for benefits or an additional claim, the Director must send notice of the issue identified to the individual and specify the week or weeks involved. The individual has a minimum of five business days after the notice is sent to respond to the information in the notice before the Director makes a determination on eligibility. Under the bill, the Director

³ R.C. Chapter 119.

⁴ R.C. 4141.13(B) and R.C. 5101.09, not in the bill.

⁵ R.C. 4141.13.

⁶ R.C. Chapter 102.

⁷ R.C. 5104.04.

must send the notice immediately after identifying the issue. The bill also requires the notice to identify what the claimant must do to address the issue or who the claimant may contact for more information.⁸

Unemployment Compensation Modernization and Improvement Council

The bill creates the Unemployment Compensation Modernization and Improvement Council. The Council must examine the process by which an individual files a claim for and receives benefits under the Unemployment Compensation Law, and any changes made to that process after the bill's effective date. The scope of the Council's examination includes, but is not limited to, all of the following:

- The technological infrastructure used to file claims and pay benefits and the experience of individuals and employers who participate in the process;
- Possible improvements that will maximize responsiveness for individuals and employers;
- Methods for sharing data across systems related to unemployment compensation to maximize efficiency;
- Methods for synergizing user experience across multiple programs administered or supervised by the Director.

The Council is prohibited from examining the solvency of Ohio's Unemployment Compensation Fund, which is used to pay benefits and provide refunds for contribution overpayments.⁹

Membership and operations

The Council consists of the following 11 members:

- Two members who on account of their vocation, employment, or affiliations can be classed as representative of employers, appointed by the Governor with the advice and consent of the Senate;
- Two members who on account of their vocation, employment, or affiliation can be classed as representatives of employees, appointed by the Governor with the advice and consent of the Senate;
- The chairpersons of the standing committees of the Senate and the House of Representatives to which legislation pertaining to the Unemployment Compensation Law is customarily referred, as appointed by the Senate President and the Speaker of the House, respectively;

⁸ R.C. 4141.28.

⁹ R.C. 4141.12(A), by reference to R.C. 4141.09, not in the bill.

- Two members of the Senate appointed by the Senate President, one of whom is a member of the majority party and one of whom is a member of the minority party;
- Two members of the House of Representatives appointed by the Speaker, one of whom is a member of the majority party and one of whom is a member of the minority party;
- The Director or a designee who has administrative responsibilities with respect to the unemployment compensation system.

All of the members appointed by the Governor serve for two years and must have training and experience that qualify them to deal with the difficult problems of unemployment compensation claims, including the claims process, customer service, and the social aspects of unemployment compensation. Legislative members serve during the session of the General Assembly in which they are appointed to the Council and for as long as they are members of the General Assembly. A vacancy on the Council is filled in the same manner as the original appointment but only for the unexpired part of a term.¹⁰

Council members serve without salary but are paid a meeting stipend of \$50 per day and their actual and necessary expenses while engaged in the performance of their duties. The Council's expenses are paid from the Unemployment Compensation Special Administrative Fund established in continuing law.¹¹

The Council must organize itself and select a chairperson or co-chairpersons and other officers and committees as it considers necessary. Six members constitute a quorum and the Council may act only on the affirmative vote of six members. The Council must meet at least once every two weeks, but it may meet more often as the Council considers necessary or at the request of the chairperson. The Director must provide the Council with office and meeting space as the Council requests.¹²

Records, reports, and recommendations

The bill grants the Council access to only the Department of Job and Family Services (ODJFS) records that are necessary for the administration of the Unemployment Compensation Law. The Council may request the Director, or any of the Director's employees, or any employer or employee subject to the law, to appear before it and to testify to relevant matters. At least once a year, the Council must allow members of the public to appear before it to testify to relevant matters.

Not later than six months after the bill's effective date, the Council must issue an initial report that, at minimum, describes the state of the claims process at the time the report is issued, as well as any planned improvements to the process. The Council's initial report must include findings on issues that individuals and employers are facing, including issues with user

¹⁰ R.C. 4141.12(B) and (C).

¹¹ R.C. 4141.12(D) and (G).

¹² R.C. 4141.12(E) and (F).

experience and the measures being taken to address those issues. The Council must review and, if necessary, update the initial report every six months after it issues the report.

The Council may conduct additional research and make and publish additional reports. It may also recommend to the Director, the Unemployment Compensation Review Commission, the Governor, or the General Assembly changes in the Unemployment Compensation Law, or in the rules implementing that law, that the Council considers necessary. The Director must post any testimony, report, or recommendation published or received by the Council on a publicly viewable website maintained by the Director.¹³

Notices provided to the Council

The bill requires the Director to notify the Council members of any unauthorized access to or acquisition of ODJFS records that are necessary for the administration of the Unemployment Compensation Law. The Director must provide the notice not more than 24 hours after the Director discovers or is notified of the unauthorized access or acquisition. If the Director determines that the unauthorized access or acquisition of records is ongoing, or that public disclosure will result in additional unauthorized access or acquisition, the Director may notify the Council members in a manner that maintains confidentiality, including during an executive session. The notice is not a public record until the Director determines that the cause of the unauthorized access or acquisition has been addressed.

The bill also requires the Director to notify the Council members of any substantial disruption in the benefit application process. The Council must adopt and periodically review a definition of a substantial disruption that the Director must report.¹⁴

Auditor of State examination of claim process

The bill requires the Auditor of State to examine the process by which an individual files a claim for and receives unemployment benefits. Not later than six months after the bill's effective date, the Auditor must publish a report of the examination and submit it to the Speaker of the House, the Senate President, the Governor, the Director, the Legislative Service Commission, and the Council.¹⁵ The Auditor must do all of the funding in the report:

1. Create a breakdown of revenues and expenditures illustrating how funding for administering claims for benefits is received and spent;
2. Compare administrative funding and cost distributions to states that process a similar number of claims, on average, as Ohio;
3. Review trends in federal funding provided for administering claims for benefits over a period of time established by the Auditor and compare provided federal funding to the total cost of administering claims for benefits over the same time period;

¹³ R.C. 4141.12(H).

¹⁴ R.C. 4141.12(I) and (J).

¹⁵ Section 3(B) and (E).

4. Identify the amount of state funds necessary to supplement federal funding for administering claims for benefits;
5. Calculate the average amount of time that elapses between the date an individual files an application for a determination benefit rights and the date the Director makes a determination on the validity of the application;
6. Calculate the average amount of time that elapses between the date an individual files a first claim for benefits or any additional claim for benefits and the Director makes a determination on the validity of the application;
7. Calculate the average amount of time that elapses between the Director allowing benefits and the payment of the benefits;
8. Compare the times calculated in (5) through (7) above to the average amount of time the administrators of state unemployment laws that process a similar number of claims, on average, as Ohio take to make similar determinations and pay benefits;
9. Provide an overview of federal and state laws governing the claims process and the impact of those laws on the process;
10. Identify any provisions of Ohio's Unemployment Compensation Law that could be repealed or amended to increase efficiency or improve claim processing while maintaining compliance with the Federal Unemployment Tax Act;¹⁶
11. Identify any improvements that can be made to the system used to process claims for benefits that is in place on the bill's effective date or any new system scheduled to be implemented on or after the bill's effective date, including improvements to individual and employer access or experience and improvements from automation;
12. Identify the advantages, if any, that could be realized from implementing an alternative system for filing a claim for benefits, including one in which an individual who wishes to file a claim by telephone can leave contact information and receive a return call;
13. Identify any improvements that could be made to the website that individuals use to file a claim for benefits online;
14. Describe the organization and staffing levels used to administer claims for benefits and compares those to the organization and staffing levels in states that process a similar number of claims, on average, as Ohio;
15. Identify any improvements that could be realized through changes in staffing levels;
16. Identify the best practices from other states' unemployment compensation laws that could be implemented in Ohio;

¹⁶ 26 United States Code 3301 to 3311.

17. Identify the most common complaints and problems applicants for or recipients of unemployment benefits identify when interacting with staff in the unemployment compensation division of ODJFS.

In addition to the findings and recommendations listed above, the Auditor's report must make recommendations on any additional matter discovered during the examination that the Auditor believes will improve the claims process.¹⁷

The bill requires the Director to cooperate promptly and fully with any request the Auditor makes that relates to the Auditor's examination of the process.¹⁸

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¹⁷ Section 3(B) and (C).

¹⁸ Section 3(D).